



Rep. Dan Brady

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LRB096 07137 WGH 44895 a

1 AMENDMENT TO SENATE BILL 1066

2 AMENDMENT NO. _____. Amend Senate Bill 1066, AS AMENDED,
3 with reference to page and line numbers of House Amendment No.
4 2, on page 5, line 22, by changing "Sections 4," to "Sections
5 1, 4, 6,"; and

6 on page 5, by inserting after line 23 the following:

7 "(820 ILCS 305/1) (from Ch. 48, par. 138.1)

8 Sec. 1. This Act may be cited as the Workers' Compensation
9 Act.

10 (a) The term "employer" as used in this Act means:

11 1. The State and each county, city, town, township,
12 incorporated village, school district, body politic, or
13 municipal corporation therein.

14 2. Every person, firm, public or private corporation,
15 including hospitals, public service, eleemosynary, religious
16 or charitable corporations or associations who has any person

1 in service or under any contract for hire, express or implied,
2 oral or written, and who is engaged in any of the enterprises
3 or businesses enumerated in Section 3 of this Act, or who at or
4 prior to the time of the accident to the employee for which
5 compensation under this Act may be claimed, has in the manner
6 provided in this Act elected to become subject to the
7 provisions of this Act, and who has not, prior to such
8 accident, effected a withdrawal of such election in the manner
9 provided in this Act.

10 3. Any one engaging in any business or enterprise referred
11 to in subsections 1 and 2 of Section 3 of this Act who
12 undertakes to do any work enumerated therein, is liable to pay
13 compensation to his own immediate employees in accordance with
14 the provisions of this Act, and in addition thereto if he
15 directly or indirectly engages any contractor whether
16 principal or sub-contractor to do any such work, he is liable
17 to pay compensation to the employees of any such contractor or
18 sub-contractor unless such contractor or sub-contractor has
19 insured, in any company or association authorized under the
20 laws of this State to insure the liability to pay compensation
21 under this Act, or guaranteed his liability to pay such
22 compensation. With respect to any time limitation on the filing
23 of claims provided by this Act, the timely filing of a claim
24 against a contractor or subcontractor, as the case may be,
25 shall be deemed to be a timely filing with respect to all
26 persons upon whom liability is imposed by this paragraph.

1 In the event any such person pays compensation under this
2 subsection he may recover the amount thereof from the
3 contractor or sub-contractor, if any, and in the event the
4 contractor pays compensation under this subsection he may
5 recover the amount thereof from the sub-contractor, if any.

6 This subsection does not apply in any case where the
7 accident occurs elsewhere than on, in or about the immediate
8 premises on which the principal has contracted that the work be
9 done.

10 4. Where an employer operating under and subject to the
11 provisions of this Act loans an employee to another such
12 employer and such loaned employee sustains a compensable
13 accidental injury in the employment of such borrowing employer
14 and where such borrowing employer does not provide or pay the
15 benefits or payments due such injured employee, such loaning
16 employer is liable to provide or pay all benefits or payments
17 due such employee under this Act and as to such employee the
18 liability of such loaning and borrowing employers is joint and
19 several, provided that such loaning employer is in the absence
20 of agreement to the contrary entitled to receive from such
21 borrowing employer full reimbursement for all sums paid or
22 incurred pursuant to this paragraph together with reasonable
23 attorneys' fees and expenses in any hearings before the
24 Illinois Workers' Compensation Commission or in any action to
25 secure such reimbursement. Where any benefit is provided or
26 paid by such loaning employer the employee has the duty of

1 rendering reasonable cooperation in any hearings, trials or
2 proceedings in the case, including such proceedings for
3 reimbursement.

4 Where an employee files an Application for Adjustment of
5 Claim with the Illinois Workers' Compensation Commission
6 alleging that his claim is covered by the provisions of the
7 preceding paragraph, and joining both the alleged loaning and
8 borrowing employers, they and each of them, upon written demand
9 by the employee and within 7 days after receipt of such demand,
10 shall have the duty of filing with the Illinois Workers'
11 Compensation Commission a written admission or denial of the
12 allegation that the claim is covered by the provisions of the
13 preceding paragraph and in default of such filing or if any
14 such denial be ultimately determined not to have been bona fide
15 then the provisions of Paragraph K of Section 19 of this Act
16 shall apply.

17 An employer whose business or enterprise or a substantial
18 part thereof consists of hiring, procuring or furnishing
19 employees to or for other employers operating under and subject
20 to the provisions of this Act for the performance of the work
21 of such other employers and who pays such employees their
22 salary or wages notwithstanding that they are doing the work of
23 such other employers shall be deemed a loaning employer within
24 the meaning and provisions of this Section.

25 (b) The term "employee" as used in this Act means:

26 1. Every person in the service of the State, including

1 members of the General Assembly, members of the Commerce
2 Commission, members of the Illinois Workers' Compensation
3 Commission, and all persons in the service of the University of
4 Illinois, county, including deputy sheriffs and assistant
5 state's attorneys, city, town, township, incorporated village
6 or school district, body politic, or municipal corporation
7 therein, whether by election, under appointment or contract of
8 hire, express or implied, oral or written, including all
9 members of the Illinois National Guard while on active duty in
10 the service of the State, and all probation personnel of the
11 Juvenile Court appointed pursuant to Article VI of the Juvenile
12 Court Act of 1987, and including any official of the State, any
13 county, city, town, township, incorporated village, school
14 district, body politic or municipal corporation therein except
15 any duly appointed member of a police department in any city
16 whose population exceeds 200,000 according to the last Federal
17 or State census, and except any member of a fire insurance
18 patrol maintained by a board of underwriters in this State. A
19 duly appointed member of a fire department in any city, the
20 population of which exceeds 200,000 according to the last
21 federal or State census, is an employee under this Act only
22 with respect to claims brought under paragraph (c) of Section
23 8.

24 One employed by a contractor who has contracted with the
25 State, or a county, city, town, township, incorporated village,
26 school district, body politic or municipal corporation

1 therein, through its representatives, is not considered as an
2 employee of the State, county, city, town, township,
3 incorporated village, school district, body politic or
4 municipal corporation which made the contract.

5 2. Every person in the service of another under any
6 contract of hire, express or implied, oral or written,
7 including persons whose employment is outside of the State of
8 Illinois where the contract of hire is made within the State of
9 Illinois, persons whose employment results in fatal or
10 non-fatal injuries within the State of Illinois where the
11 contract of hire is made outside of the State of Illinois, and
12 persons whose employment is principally localized within the
13 State of Illinois, regardless of the place of the accident or
14 the place where the contract of hire was made, and including
15 aliens, and minors who, for the purpose of this Act are
16 considered the same and have the same power to contract,
17 receive payments and give quittances therefor, as adult
18 employees.

19 3. Every sole proprietor and every partner of a business
20 may elect to be covered by this Act.

21 An employee or his dependents under this Act who shall have
22 a cause of action by reason of any injury, disablement or death
23 arising out of and in the course of his employment may elect to
24 pursue his remedy in the State where injured or disabled, or in
25 the State where the contract of hire is made, or in the State
26 where the employment is principally localized.

1 However, any employer may elect to provide and pay
2 compensation to any employee other than those engaged in the
3 usual course of the trade, business, profession or occupation
4 of the employer by complying with Sections 2 and 4 of this Act.
5 Employees are not included within the provisions of this Act
6 when excluded by the laws of the United States relating to
7 liability of employers to their employees for personal injuries
8 where such laws are held to be exclusive.

9 The term "employee" does not include persons performing
10 services as real estate broker, broker-salesman, or salesman
11 when such persons are paid by commission only.

12 (c) "Commission" means the Industrial Commission created
13 by Section 5 of "The Civil Administrative Code of Illinois",
14 approved March 7, 1917, as amended, or the Illinois Workers'
15 Compensation Commission created by Section 13 of this Act.

16 (d) The term "accident" as used in this Act means an
17 occurrence arising out of the employment resulting from a risk
18 incidental to the employment and in the course of the
19 employment at a time and place and under circumstances
20 reasonably required by the employment.

21 (e) The term "injury" as used in this Act means an injury
22 that arises out of and in the course of employment. An injury
23 by accident is compensable only if the accident was the primary
24 factor in causing both the resulting medical condition and
25 disability. The "primary factor" is defined to be the major
26 contributory factor, in relation to other factors, causing both

1 the resulting medical condition and disability. "Injury"
2 includes the aggravation of a pre-existing condition by an
3 accident arising out of and in the course of the employment,
4 but only for so long as the aggravation of the pre-existing
5 condition continues to be the primary factor causing the
6 disability.

7 (1) An injury is deemed to arise out of and in the
8 course of the employment only if:

9 (A) it is reasonably apparent, upon consideration
10 of all circumstances, that the accident is the primary
11 factor in causing the injury;

12 (B) it does not come from a hazard or risk
13 unrelated to the employment to which employees would
14 have been equally exposed outside of the employment.

15 (2) An injury resulting directly or indirectly from
16 idiopathic causes is not compensable.

17 (3) Any condition or impairment of health of an
18 employee employed as a suffered by a firefighter,
19 paramedic, or emergency medical technician (EMT), which
20 results directly or indirectly from any bloodborne
21 pathogen, lung or respiratory disease or condition, heart
22 or vascular disease or condition, hypertension, hernia,
23 hearing loss, tuberculosis, or cancer resulting in any
24 disability to the employee shall be rebuttably presumed not
25 to arise out of and in the course of the employment unless
26 the accident is the primary factor in causing the resulting

1 medical condition.

2 (Source: P.A. 93-721, eff. 1-1-05.)"; and

3 on page 26, by inserting after line 7 the following:

4 "(820 ILCS 305/6) (from Ch. 48, par. 138.6)

5 Sec. 6. (a) Every employer within the provisions of this
6 Act, shall, under the rules and regulations prescribed by the
7 Commission, post printed notices in their respective places of
8 employment in such number and at such places as may be
9 determined by the Commission, containing such information
10 relative to this Act as in the judgment of the Commission may
11 be necessary to aid employees to safeguard their rights under
12 this Act in event of injury.

13 In addition thereto, the employer shall post in a
14 conspicuous place on the place of the employment a printed or
15 typewritten notice stating whether he is insured or whether he
16 has qualified and is operating as a self-insured employer. In
17 the event the employer is insured, the notice shall state the
18 name and address of his insurance carrier, the number of the
19 insurance policy, its effective date and the date of
20 termination. In the event of the termination of the policy for
21 any reason prior to the termination date stated, the posted
22 notice shall promptly be corrected accordingly. In the event
23 the employer is operating as a self-insured employer the notice
24 shall state the name and address of the company, if any,

1 servicing the compensation payments of the employer, and the
2 name and address of the person in charge of making compensation
3 payments.

4 (b) Every employer subject to this Act shall maintain
5 accurate records of work-related deaths, injuries and illness
6 other than minor injuries requiring only first aid treatment
7 and which do not involve medical treatment, loss of
8 consciousness, restriction of work or motion, or transfer to
9 another job and file with the Commission, in writing, a report
10 of all accidental deaths, injuries and illnesses arising out of
11 and in the course of the employment resulting in the loss of
12 more than 3 scheduled work days. In the case of death such
13 report shall be made no later than 2 working days following the
14 accidental death. In all other cases such report shall be made
15 between the 15th and 25th of each month unless required to be
16 made sooner by rule of the Commission. In case the injury
17 results in permanent disability, a further report shall be made
18 as soon as it is determined that such permanent disability has
19 resulted or will result from the injury. All reports shall
20 state the date of the injury, including the time of day or
21 night, the nature of the employer's business, the name,
22 address, age, sex, conjugal condition of the injured person,
23 the specific occupation of the injured person, the direct cause
24 of the injury and the nature of the accident, the character of
25 the injury, the length of disability, and in case of death the
26 length of disability before death, the wages of the injured

1 person, whether compensation has been paid to the injured
2 person, or to his or her legal representative or his heirs or
3 next of kin, the amount of compensation paid, the amount paid
4 for physicians', surgeons' and hospital bills, and by whom
5 paid, and the amount paid for funeral or burial expenses if
6 known. The reports shall be made on forms and in the manner as
7 prescribed by the Commission and shall contain such further
8 information as the Commission shall deem necessary and require.
9 The making of these reports releases the employer from making
10 such reports to any other officer of the State and shall
11 satisfy the reporting provisions as contained in the "Health
12 and Safety Act" and "An Act in relation to safety inspections
13 and education in industrial and commercial establishments and
14 to repeal an Act therein named", approved July 18, 1955, as now
15 or hereafter amended. The reports filed with the Commission
16 pursuant to this Section shall be made available by the
17 Commission to the Director of Labor or his representatives and
18 to all other departments of the State of Illinois which shall
19 require such information for the proper discharge of their
20 official duties. Failure to file with the Commission any of the
21 reports required in this Section is a petty offense.

22 Except as provided in this paragraph, all reports filed
23 hereunder shall be confidential and any person having access to
24 such records filed with the Illinois Workers' Compensation
25 Commission as herein required, who shall release any
26 information therein contained including the names or otherwise

1 identify any persons sustaining injuries or disabilities, or
2 give access to such information to any unauthorized person,
3 shall be subject to discipline or discharge, and in addition
4 shall be guilty of a Class B misdemeanor. The Commission shall
5 compile and distribute to interested persons aggregate
6 statistics, taken from the reports filed hereunder. The
7 aggregate statistics shall not give the names or otherwise
8 identify persons sustaining injuries or disabilities or the
9 employer of any injured or disabled person.

10 (c) Notice of the accident shall be given to the employer
11 as soon as practicable, but not later than 45 days after the
12 accident. Provided:

13 (1) In case of the legal disability of the employee or any
14 dependent of a deceased employee who may be entitled to
15 compensation under the provisions of this Act, the limitations
16 of time by this Act provided do not begin to run against such
17 person under legal disability until a guardian has been
18 appointed.

19 (2) In cases of injuries sustained by exposure to
20 radiological materials or equipment, notice shall be given to
21 the employer within 90 days subsequent to the time that the
22 employee knows or suspects that he has received an excessive
23 dose of radiation.

24 No defect or inaccuracy of such notice shall be a bar to
25 the maintenance of proceedings on arbitration or otherwise by
26 the employee unless the employer proves that he is unduly

1 prejudiced in such proceedings by such defect or inaccuracy.

2 Notice of the accident shall give the approximate date and
3 place of the accident, if known, and may be given orally or in
4 writing.

5 (d) Every employer shall notify each injured employee who
6 has been granted compensation under the provisions of Section 8
7 of this Act of his rights to rehabilitation services and advise
8 him of the locations of available public rehabilitation centers
9 and any other such services of which the employer has
10 knowledge.

11 In any case, other than one where the injury was caused by
12 exposure to radiological materials or equipment or asbestos
13 unless the application for compensation is filed with the
14 Commission within 3 years after the date of the accident, where
15 no compensation has been paid, or within 2 years after the date
16 of the last payment of compensation, where any has been paid,
17 whichever shall be later, the right to file such application
18 shall be barred.

19 In any case of injury caused by exposure to radiological
20 materials or equipment or asbestos, unless application for
21 compensation is filed with the Commission within 25 years after
22 the last day that the employee was employed in an environment
23 of hazardous radiological activity or asbestos, the right to
24 file such application shall be barred.

25 If in any case except one where the injury was caused by
26 exposure to radiological materials or equipment or asbestos,

1 the accidental injury results in death application for
2 compensation for death may be filed with the Commission within
3 3 years after the date of death where no compensation has been
4 paid or within 2 years after the date of the last payment of
5 compensation where any has been paid, whichever shall be later,
6 but not thereafter.

7 If an accidental injury caused by exposure to radiological
8 material or equipment or asbestos results in death within 25
9 years after the last day that the employee was so exposed
10 application for compensation for death may be filed with the
11 Commission within 3 years after the date of death, where no
12 compensation has been paid, or within 2 years after the date of
13 the last payment of compensation where any has been paid,
14 whichever shall be later, but not thereafter.

15 (e) Any contract or agreement made by any employer or his
16 agent or attorney with any employee or any other beneficiary of
17 any claim under the provisions of this Act within 7 days after
18 the injury shall be presumed to be fraudulent.

19 (f) (Blank). ~~Any condition or impairment of health of an~~
20 ~~employee employed as a firefighter, emergency medical~~
21 ~~technician (EMT), or paramedic which results directly or~~
22 ~~indirectly from any bloodborne pathogen, lung or respiratory~~
23 ~~disease or condition, heart or vascular disease or condition,~~
24 ~~hypertension, tuberculosis, or cancer resulting in any~~
25 ~~disability (temporary, permanent, total, or partial) to the~~
26 ~~employee shall be rebuttably presumed to arise out of and in~~

1 ~~the course of the employee's firefighting, EMT, or paramedic~~
2 ~~employment and, further, shall be rebuttably presumed to be~~
3 ~~causally connected to the hazards or exposures of the~~
4 ~~employment. This presumption shall also apply to any hernia or~~
5 ~~hearing loss suffered by an employee employed as a firefighter,~~
6 ~~EMT, or paramedic. However, this presumption shall not apply to~~
7 ~~any employee who has been employed as a firefighter, EMT, or~~
8 ~~paramedic for less than 5 years at the time he or she files an~~
9 ~~Application for Adjustment of Claim concerning this condition~~
10 ~~or impairment with the Illinois Workers' Compensation~~
11 ~~Commission. The Finding and Decision of the Illinois Workers'~~
12 ~~Compensation Commission under only the rebuttable presumption~~
13 ~~provision of this subsection shall not be admissible or be~~
14 ~~deemed res judicata in any disability claim under the Illinois~~
15 ~~Pension Code arising out of the same medical condition;~~
16 ~~however, this sentence makes no change to the law set forth in~~
17 ~~Krohe v. City of Bloomington, 204 Ill.2d 392.~~

18 (Source: P.A. 95-316, eff. 1-1-08.)".